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February 1, 2005

California Energy Commission
Docket Office
Attn: Docket 04-IEP-01 D
1516 Ninth Street, MS-4
Sacramento, CA 95814-5512

DOCKET	
04-IEP-1D	
DATE	FEB 1 2005
RECD.	FEB 1 2005

RE: *Integrated Energy Policy Report*, Docket No. 04-IEP-01

Dear Commissioners:

In compliance with California Energy Commission Order No. 04-1103-03, and in compliance with California Public Resources Code Section 25301(a), San Diego Gas and Electric (SDG&E) respectfully submits its electricity demand forecast, demand side management impacts, and related information consistent with the forms and instructions approved by the Order, on the enclosed compact disc. Also attached is SDG&E's Application for Confidential Designation for certain portions of the information provided on the compact disc.

SDG&E looks forward to working with the CEC staff and commissioners in conducting the assessments and considering the analysis and policy recommendations that will become the 2005 *IEPR*. Should you have any questions regarding this submittal, please do not hesitate to call me at (916) 492-4244, or the SDG&E Case Manager, Joe Klobardanz, at (858) 654-1771.

Sincerely,

Attachments

**APPLICATION FOR CONFIDENTIAL DESIGNATION
(20 CCR SECTION 2025)**

**2005 INTEGRATED ENERGY POLICY REPORT
Docket Number 04-IEP-1**

Applicant: San Diego Gas & Electric Company ("SDG&E")

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1. (a) Title, data, and description of the record.

Electricity Demand Forecast and Price Information forms issued by the California Energy Commission (CEC) on November 3, 2004.

(b) Specify the part(s) of the record for which you request confidential designation.

SDG&E is *not* requesting confidential designation for most of the forms and/or all years, but confidential treatment is requested for the following:

Form 1.3 – Coincident Peak Demand by Sector. *Confidential Beginning in 2003.*

Form 1.4 – Distribution Area Peak Demand. *Confidential Beginning in 2003.*

Form 1.5 – Peak Demand Weather Scenarios. *Confidential Beginning in 2003.*

Form 1.6 – Hourly Loads. *Confidential.*

Form 2.3 – Electricity Rate Forecast. *Confidential Beginning in 2005.*

2. State and justify the length of time the Commission should keep the record confidential.

SDG&E requests that the forms for which it requests confidential designation herein be kept confidential for at least three years. SDG&E believes that this is the length of time that is required to ensure that recent historical data does not reveal SDG&E's ongoing and future procurement positions and strategies, thereby compromising SDG&E's ability to secure the most favorable deals for customers. Because SDG&E's portfolio is largely static through 2009, market sensitive information remains confidential for the near term, even on a historic basis,

because of the knowledge it could impart about SDG&E's future procurement needs and procurement patterns.

3. (a) State the provision(s) of the Public Records Act or other law that allows the Commission to keep the record confidential, and explain why the provision(s) applies to the record.

These forms provide competitively and commercially sensitive business and resource planning information and trade secrets. Under the Public Records Act, Govt. Code Section 6254(k), records subject to the privileges established in the Evidence Code are not required to be disclosed. See also Govt. Code Section 6254.7(d). Evidence Code Section 1060 provides a privilege for trade secrets, which is defined in Civil Code Section 3426.1. That definition includes information, including a formula, technique, and process, that derives independent economic value from not being generally known to the public or to other persons who could obtain value from its disclosure.

There are basically three grounds on which to justify confidential treatment of the electric demand and price forecast data. First, these forms contain demand and price forecast information that, even when aggregated on an annual basis, relatively easily allows a party to calculate SDG&E's current energy supply needs on a disaggregated (monthly and hourly) basis. By thus calculating SDG&E's "residual net short" position, potential suppliers achieve a competitive advantage that potentially harms SDG&E's customers who may end up paying higher power prices.^{1/} Second, to publicly release this information would allow market participants to have access to competitively sensitive information that would normally not be available to them. As a matter of law and public policy, the CEC should ensure that it does not facilitate availability of such data. Third, SDG&E is concerned that parties not have available to them information that they might rely upon inappropriately to their detriment. This issue is of principal concern with customers relying on forecasts and using them for purposes for which they are not intended with negative consequences. Such a situation would expose SDG&E and others to potential harm that should be avoided by protecting this information.

SDG&E believes Section 454.5 of the Public Utilities Code is also pertinent. That section requires the California Public Utilities Commission to maintain on a confidential basis market sensitive information related to a distribution utility's procurement plan. The data provided here is the same data that would likely be protected in that forum as well. It makes little sense for two state agencies receiving the same or similar information to treat it inconsistently. In fact, the CPUC has protected this type of information in the past, and the CEC should therefore also do so.

^{1/} "Residual net short" refers to the amount of energy SDG&E needs to procure in the market after meeting its forecasted load with must-take power and utility retained generation.

(b) Discuss the public interest in nondisclosure of the record. If the record contains trade secrets or its disclosure would otherwise cause loss of a competitive advantage, please also state how it would be lost, the value of the information to the Applicant, and the ease or difficulty with which the information could be legitimately acquired or duplicated by others.

SDG&E believes that there is a compelling public interest in protecting this information. As noted above, there are at least three broad areas where harm can occur, all of which ultimately disadvantage the consumer. Even on an aggregated annual basis, because of the ease with which SDG&E's net short position can be derived, protection is required. SDG&E's generation profile is easily discovered through publicly available information, such as the DWR contracts. Once an entity assembles all of that data, it would be a relatively simple process to "reverse engineer" to disaggregate annual data into monthly or even hourly data with a degree of accuracy that could diminish SDG&E's ability to contract at the best possible prices. These determinations need not be mathematically exact to cause harm; ratepayers undertake substantial risk of higher energy prices (or fewer revenues from sales) any time a potential supplier knows that a utility must buy or sell gas or electricity on behalf of its ratepayers at any given time. SDG&E believes that it would be relatively easy to perform these calculations by receiving this data, and the hourly data in fact already provides the information in a format that reveals exactly what needs the utmost protection.

In general, SDG&E's procurement-related information after January 1, 2003 when the utilities resumed their procurement responsibilities is a prime candidate for confidential treatment because such information could be used to reveal sensitive SDG&E-specific data on the net short, spot purchases, spot sales, total bundled sales, and contract purchases. Even where data is aggregated by total load and total resources, simple math would reveal the confidential net short position. Similarly, if buyers know when SDG&E has to sell power, SDG&E could get a lower price than if the market assumed the utility had discretion over whether or not to sell. Such market knowledge is a key factor, for example, for why prices drop during spring hydro run-off periods.

It is also important to protect procurement and resource planning information so as not to reveal retail rates by customer class. This information is competitively sensitive because the utility's competitors can "cherry pick" SDG&E's customers by comparing projections of SDG&E's future prices to their own. This concern is particularly acute with the pending implementation of Community Choice Aggregation and the potential reinstatement of Direct Access. Also as noted above, the public interest is served by energy agencies protecting the integrity of markets and information. The CEC should prevent the opportunity that parties, especially customers, might inappropriately use forecast information for an unintended use and potentially incur harm as a result.

4. **State whether the record may be disclosed if it is aggregated with other information or masked to conceal certain portions (including but not limited to the identity of the Applicant). State the degree of aggregation or masking required. If the data cannot be disclosed even if it is aggregated or masked, explain why.**

As explained above, in SDG&E's case even annual aggregated data could allow a party to "reverse calculate" monthly and even hourly demand and procurement data. Aggregation of data by the CEC on a statewide basis would be acceptable. Other aggregations may also be acceptable; SDG&E recommends that the CEC and SDG&E work together to develop those compilations. Also, after the passage of at least three years, release of the data provided herein would not cause as much concern. SDG&E also believes it may be useful for CEC staff to work with the utilities to develop a common framework for treatment of confidential and appropriately aggregated information.

5. **State how the record is kept confidential by the Applicant and whether it has ever been disclosed to a person other than an employee of the Applicant. If it has, explain the circumstances under which disclosure occurred.**

As explained above, SDG&E maintains access to this information on a confidential basis. It is only available by hard copy and electronically on a limited basis within certain departments that must have access to the information to conduct their procurement and regulatory activities. The information is password protected on computer systems or in hard copy form kept in secure locations. Only certain individuals with key card access are able to enter areas of the Company where the information is available and utilized.

The CEC should also be aware that under Standard of Conduct #2 adopted by the CPUC for the utilities' procurement activities, utility employees are obligated to protect the Company's trade secrets:

2. Each utility must adopt, actively monitor, and enforce compliance with a comprehensive code of conduct for all employees engaged in the procurement process that: 1) identifies trade secrets and other confidential information; 2) specifies procedures for ensuring that such information retains its trade secret and/or confidential status [e.g., limiting access to such information to individuals with a need to know, limiting locations at which such information may be accessed, etc.]; ... (See D.02-12-074, pp. 57-58.)

SDG&E has not to the best of its knowledge previously publicly released this information in precisely this format or projecting out over this duration of time. While certain of the information here may have been released in part previously in various state regulatory filings, SDG&E has not to the best of its knowledge publicly collated this data from various sources in this "user friendly" manner. In

sum, combined with other information from various regulatory proceedings and public sources, SDG&E's ability to achieve the best results for customers could be compromised if the data were publicly released.

I certify under penalty of perjury that the information contained in this application for confidential designation is true, correct, and complete to the best of my knowledge and that I am authorized to make the application and certification on behalf of the Applicant.

Dated: February 1, 2005

Signed: _____/S/_____

Name: Lisa G. Urick

Title: Managing Attorney

LD 2D #159053 – v1 – CEC Confidential Application